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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,887	11/06/2001	Samuel Cavallaro	2000P09133 US01	7718

7590 10/08/2003

Siemens Corporation  
Intellectual Property Department  
186 Wood Avenue South  
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EXAMINER

LAYNO, CARL HERNANDZ

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 10/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

NYK

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/992,887	CAVALLARO ET AL.
	Examiner <i>Carl H. Layno 10/11/03</i>	Art Unit 3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 06 November 2001 .

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 and 12 is/are rejected.

7) Claim(s) 2-11 and 13-21 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892) ✓

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) / / /

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1,6,7 .

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for a priority filing date based upon the submission of U.S Provisional Application 60/248,101, filed November 13, 2000.

### ***Information Disclosure Statement***

2. Acknowledgment is made of applicant's Information Disclosure Statements (PTO-1449) which were received by the Office on November 6, 2001, December 17, 2001, and on August 6, 2002. These document have been made of record in the file as Paper Nos.1, 6, and 7, respectively.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Nafis et al '631 PCT patent (WIPO) or Halpern et al '717 (Applicant's prior art).

The Nafis et al '631 WIPO patent describes a computer graphic system (Fig.2) which displays both real-time imaging data and computer generated non-real time images concurrently on the same screen in order to assist surgeons during operations. Applicant's attention is directed

to Figs.4 and 5, which show the real-time images of a patient's head with computer generated non-real time brain images superimposed on the same screen. Workstation **100a,b** (Figs.2 and 3) is connected to video cameras **12a,b** for live (real-time) data (p.7, lines 16-18) and to imaging apparatus **10** for non real-time imaging data.

The Halpern et al '717 patent, cited by the Examiner as prior art, describes a mobile patient monitoring system (Fig.1) whose portable display **22** is capable of displaying both real-time data and imaging data. Fig.6e shows display **22e** displaying both real time graphs of vital signs **24e**, such as ECGs, and non real-time radiology images, such as x-rays, CAT scans, or ultrasound images, simultaneously (col.8, lines 13-27). The system utilizes a Microsoft Windows® operating system **44** (Fig.7)(col.9, lines 3-6) in processor **14** for communicating with sensing modules **16**, which provide real-time and non real-time patient information.

#### *Allowable Subject Matter*

5. Claims 2-11 and 13-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Mann et al '623 and Snell et al '985 patents are cited by the Examiner for their pertinent recitation of medical monitoring devices capable of displaying both real-time ECG

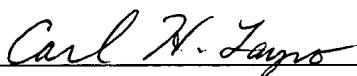
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waveforms and alphanumeric non real-time data. Unlike applicant's claimed device, however, those of ~~Mann et al~~ and ~~Snell et al~~ fail to show non real-time "images".

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl H. Layno whose telephone number is (703) 308-3694. The examiner can normally be reached on Monday thru Thursday from 9 AM to 6 PM and every other Friday between 9AM and 5PM. A voice mail or E-mail message ([carl.layno@uspto.gov](mailto:carl.layno@uspto.gov)) may be left if desired.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes, can be reached on (703) 308-5181. The current fax number for this Group is (703) 305-3590. Alternatively, for official correspondence, one may use the RightFax number (703) 872-9302 and for unofficial faxes (703) 746-4873. For after final actions, use (703) 872-9303.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Legal Instruments Examiner (LIE) Brenda Webb whose telephone number is (703) 305-7520.



CARL LAYNO  
PRIMARY EXAMINER

CHL  
10/1/03